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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,127	12/05/2003	Gabriel G. Khairallah	03-173	9009
719	7590	07/06/2005	EXAMINER	
CATERPILLAR INC. 100 N.E. ADAMS STREET PATENT DEPT. PEORIA, IL 616296490			NOVOSAD, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,127

Applicant(s)

KHAIRALLAH ET AL.

Examiner

Christopher J. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 120503.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

EA

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 9-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "similar" in claim 4, line 2; claim 10, line 2; and in claim 14, second to last line renders the claims indefinite since "similar" is a relative term and it is unclear as to exactly what is supposed to constitute "similar".

In claim 9, line 5, the recitation "the first-side portion" should be corrected to --the second-side portion--. Otherwise, this recitation is contradictory to the recitation in line 4.

In claim 9, line 8, it is unclear what "it" is supposed to be.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Zanetis.

With respect to claim 1, Zanetis shows an implement (Fig. 8), comprising:

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a housing 21 (Fig. 8) having a first-side portion (left 26 in Fig. 8) and a second-side portion (right 26 in Fig. 8);

at least one element 50 having a weight (unnumbered), the element 50 being attached to the second-side portion (right 26 in Fig. 8) of the housing 21 and the weight (unnumbered) of the element 50 creating a moment arm (unnumbered);

a shaft 51 or 44 positioned between the first-side portion (left 26 in Fig. 8) and second-side portion (right 26 in Fig. 8) of the housing 21 and operably coupled to at least one of the element 50; and

a counterweight 43,45 attached to the first-side portion (left 26 in Fig. 8) of the housing 21,

the counterweight 43,45 offsetting the moment arm (unnumbered) created by the weight (unnumbered) of the element 50.

As to claim 2, the implement (Fig. 8) could function as a landscape tiller as shown in Fig. 9.

Regarding claim 3, the element 50 is a motor 50 (col. 6, line 43).

With respect to claim 4, the counterweight 43,45 has a weight (unnumbered) substantially similar to the weight (unnumbered) of the motor 50.

As to claim 5, the motor 50 (col. 6, line 43) is a hydraulic motor 50 (col. 6, line 43).

With respect to claim 6, the counterweight 43,45 comprises a first plate 45 and a second plate 43, the first 45 and second 43 plates attaching the shaft 44 to the first-side portion (left 26 in Fig. 8) of the housing 21.

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Regarding claim 7, the first 45 and second 43 plates are adjustably attached via bolts, unnumbered, to the first-side portion (left side 26 in Fig. 8) of the housing 21.

As to claim 8, the adjustability of the first 45 and second 43 plates permits the shaft 44 to align with the motor 50.

With respect to claim 9, Zanetis shows a method, comprising:

fabricating a housing 21 (Fig. 8) having a first-side portion (left 26 in Fig. 8) and a second-side portion (right 26 in Fig. 8);

attaching a motor (col. 6, line 43), having a weight (unnumbered), to the second-side portion (right 26 in Fig. 8) of the housing 21, wherein the motor (col. 6, line 43) being attached to the second-side portion (right 26 in Fig. 8) of the housing 21 creates a moment arm (unnumbered);

positioning a shaft 51 or 44 between the first-side portion (left 26 in Fig. 8) and the second-side portion (right 26 in Fig. 8) of the housing 21 and connecting it 51 or 44 thereto;

operably coupling the motor 50 to the shaft 51; and

attaching a counterweight 43,45 to the first-side portion (left 26 in Fig. 8) of the housing 21,

the counterweight 43,45 offsetting the moment arm (unnumbered) created by the motor 50.

Regarding claim 10, the counterweight 43,45 has a weight (unnumbered) substantially similar to a weight (unnumbered) of the motor 50.

As to claim 11, Zanetis shows the method steps of:

attaching the shaft 44 to the counterweight 43,45; and

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aligning the shaft 44 with the motor 50 by adjusting a location (unnumbered) of the attachment of the counterweight 43,45 to the first-side portion (left 26 in Fig. 8) of the housing 21 via bolts, unnumbered.

With respect to claim 12, attaching the counterweight 43,45 further comprises attaching a first plate 45 to an outside of the first-side portion (left 26 in Fig. 8) of the housing 21 and attaching a second plate 43 to an inside of the first-side portion (left 26 in Fig. 8) of the housing 21.

Regarding claim 13, the implement (Fig. 8) could function as a landscape tiller as shown in Fig. 9.

As to claim 14, Zanetis shows a work machine (Fig. 1), comprising:

a body portion 18;

an implement (Fig. 8) operatively mounted to the body portion 18, the implement (Fig. 8) including:

a housing 21 having a first-side portion (left side 26 in Fig. 8) and a second-side portion (right side 26 in Fig. 8);

a motor 50 attached to the second-side portion (right side 26 in Fig. 8) of the housing 21;

a shaft 51,44 positioned between the first-side portion (left side 26 in Fig. 8) and second-side portion (right side 26 in Fig. 8) of the housing 21 and operably coupled to the motor 50; and

a counterweight 43,45 attached to the first-side portion (left side 26 in Fig. 8) of the housing 21, the counterweight 43,45 having a weight (unnumbered) substantially similar to that of the motor 50.

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With respect to claim 15, the implement (Fig. 8) could function as a landscape tiller as shown in Fig. 9.

Regarding claim 16, the motor 50 (col. 6, line 43) is a hydraulic motor 50 (col. 6, line 43).

As to claim 17, the counterweight 43,45 comprises a first plate 45 and a second plate 43, the first 45 and second 43 plates attaching the shaft 44 to the housing 21.

With respect to claim 18, the first 45 and second 43 plates are adjustably attached via bolts, unnumbered, to the first-side portion (left 26 in Fig. 8) of the housing 21.

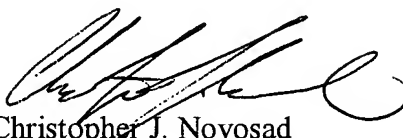
Regarding claim 19, the adjustability of the first 45 and second 43 plates permits the shaft 44 to align with the motor 50.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

June 29, 2005